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MEMORANDUM

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DATE: May 5, 2004
To: Examiner Vanel Frenel
CC: Primary Examiner Joseph Thomas
FROM: Joseph R. Carvalko Jr. (Reg. No. 29,779)
SUBJECT: Suggested Interview Outline For 09/506,432

For the May 19, 3:00 PM conference there are only a few issues requiring resolution. Applicant would like to get this case in condition for allowance as soon as practicable. Please consider the following discussion points:

1. To overcome the rejection of Claims 1-15 and 55-69, the Applicant would propose amending Claims 1, 3-4, 6, 7, 9-13, 15, 55-56, 60, 62, 64-65, 67.
2. The Examiner rejected Claims 1-15 and 55-69 under 35 U.S.C. 103(a) as being unpatentable over Leatherman (U.S. Patent No. 5,544,044), in view of Johnson (USP No. 4,987,538). However the primary reference to Leatherman teaches a system and method for managing and processing insurance claims that implement a graphic user interface. The Leatherman system is not for "any type of claims" as asserted by the examiner. The abstract states, "A software-based medical information system performs a method of *analyzing health care claims* records for an enrolled population (e.g., HMO, Medicaid) to assess and report on quality of care based on conformance to nationally recognized medical practice guidelines or quality indicators. The system does the following (A) *analyzes health care* received by enrollees having a specified health care condition by: providing to the system health care claims records for a selected enrollee population; (1) defining at least one health care condition in terms of health care events reportable in health care claims records; (2) identifying in the health care claims records those enrollees meeting the definition for that health care condition; (3) defining health care quality criteria for that health care condition in terms of health care events reportable in health care claims records; (4) comparing the health care quality criteria for the at least one health care condition to the health care claims records for at least a portion of those enrollees meeting the definition for that health care condition; and (5) developing and outputting from the system a health care quality report based on the comparison and formulating action recommendations to improve care. The system provides an efficient means to supplement claims data with data from patient medical records (*emphasis provided*)."

Thus, Leatherman essentially teaches a computerized method for a medical provider to assess and report on quality of care based on conformance to nationally recognized medical practice guidelines or quality indicators, which has nothing to do with verifying workers' compensation claims. Johnson simply does not suggest any elements of the claimed invention.

4. The present invention is to "*produce an indication of the lack of determining the workers' compensation number and provide said indicator to a selected one of a plurality of payor computers*" as recited in claim 1.

5. Applicant would propose withdrawal of this rejection for lack of motivation or suggestion in accordance with MPEP 2143.01. MPEP 2143.01 requires that "THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE"; otherwise there is no suggestion or motivation to make the proposed modification.

I have attached a proposed response to the office action. At the may 19 telephone conference we will be joined by Attorney Kelly Frey a representative of the inventors. We look forward to a productive discussion.